

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUFUS WRIGHT,

Defendant.

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Case No. 03-3135-01-CR-S-RED

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 16, 2003, Defendant, along with co-Defendant Michael Hankins, was indicted in a two-count Indictment with conspiracy to possess with the intent to distribute in excess of 50 grams of methamphetamine, which is a felony in violation of 21 U.S.C. §§841(a)(1) and 841(b)(1)(A)(viii); all in violation of 21 U.S.C. § 846, and of possession with intent to distribute in excess of 50 grams of methamphetamine, in violation of 21 U.S.C. §§841(a)(1) and 841(b)(1)(A)(viii). On February 7, 2005, Defendant filed a Motion to Suppress (Doc. 75), arguing that the stop, search, and seizure of his automobile on August 6, 2003, which resulted in the discovery of three ounces of a white crystalized powder, packaged in a white Styrofoam cup. The substance later field tested positive for the presence of methamphetamine. The United States filed a response to the Motion, and a formal hearing was held before the Honorable James C. England, United States Magistrate Judge for the Western District of Missouri. After the hearing, Judge England issued a Report and Recommendation (Doc. 87), recommending that the Motion be denied. Defendant has not filed objections to the Report and Recommendation, and time to do so has passed.

On motions to suppress, the Court reviews the magistrate's report and recommendation de novo and may accept, reject, or modify, in whole or in part, the findings or recommendations made

by the magistrate. 28 U.S.C. § 636(b). The Court's review must include de novo review of the magistrate's findings of fact, including any credibility determinations. *United States v. Lothridge*, 324 F.3d 599, 600 (8th Cir. 2003).

After an independent and de novo review of the record, the Court finds that the stop of Defendant's vehicle and subsequent search and seizure of the substance to be constitutionally valid. For the reasons stated in the Magistrate's Report and Recommendation, Defendant's Motion to Suppress will be denied. Accordingly, it is hereby

ORDERED that the Court **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Doc. 87) and **DENIES** Defendant's Motion to Suppress (Doc. 75).

IT IS SO ORDERED.

DATE: June 27, 2005

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT